



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

**Requestor Name**

Pain & Recovery North

**Respondent Name**

Netherlands Insurance Co

**MFDR Tracking Number**

M4-15-0798-01

**Carrier's Austin Representative**

Box Number 01

**MFDR Date Received**

October 30, 2014

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "In summary the carrier has failed to recognize that this facility has properly billed the compensable diagnosis thus these services should have been processed for payment."

**Amount in Dispute:** \$10,986.60

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** Written acknowledgement of medical fee dispute received however, no position statement submitted.

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 6, 2013 through February 13, 2014	Physical Therapy, Pain Management	\$10,986.60	\$9,564.90

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.600 sets out the guidelines for prospective and concurrent review of health care.
3. 28 Texas Administrative Code §133.210 defines medical documentation
4. 28 Texas Administrative Code §134.203 sets out the reimbursement guidelines for professional medical services.
5. 28 Texas Administrative Code §134.204 sets out the reimbursement guidelines for workers compensation specific services.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - 214 – Workers' compensation claim adjudicated as non-compensable
  - 112 – Service not furnished directly to the patient and/or not documented
  - 197 – Precertification/authorization/notification absent
  - 18 – Duplicate claim/service

- Charge disallowed per employer and or insurance carrier instruction.

## **Issues**

1. Did the requestor obtain required prior authorization?
2. Did the Carrier support denial of disputed services?
3. Were the disputed services supported by medical documentation?
4. What is the rule applicable to fee guidelines?
5. Is the requestor entitled to reimbursement?

## **Findings**

1. The Division placed a copy of the Medical Fee Dispute Resolution request in the insurance carrier's Austin representative box, which was acknowledged, received on November 6, 2014. Per 28 Texas Administrative Code §133.307(d)(1), "The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile within 14 calendar days after the date the respondent received the copy of the requestor's dispute. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information." The insurance carrier did not submit any response for consideration in this dispute. Accordingly, this decision is based on the information available at the time of review.
2. The Carrier denied the disputed services as 197 – "Precertification/authorization/notification absent." Per 28 Texas Administrative Code §134.600 (p) states in pertinent part, "Non-emergency health care requiring preauthorization includes: (5) physical and occupational therapy services, which includes those services listed in the Healthcare Common Procedure Coding System (HCPCS)..." Review of the submitted documentation finds;
  - a. Document from Coventry dated September 3, 2013; Certified quantity 12 Physical Therapy, Start date: 08/29/2013, End date: 11/22/13
  - b. Document from Coventry dated October 1, 2013; Certified quantity 12 Physical Therapy, Start date: September 27, 2013 End Date: December 31, 2013
  - c. Document from Coventry dated November 6, 2013; Certified quantity 12 Physical Therapy, Start date: October 29, 2013 End Date: March 31, 2014
  - d. Document from Coventry dated January 9, 2014; Certified quantity 15 pain management, Start date: January 2, 2014 End Date: May 2, 2014

Based on the above the Carrier's denial is not supported except for submitted code 97014 (electric stim) which was not included in the authorization request from the health care provider.

3. The carrier also denied the disputed services as, 214 – "Workers' compensation claim adjudicated as non-compensable" and "Charge disallowed per employer and or insurance carrier instruction." 28 Texas Administrative Code §134.600 (l) states in pertinent part, "The insurance carrier shall not withdraw a preauthorization or concurrent utilization review approval once issued." The Division finds these denials are not supported as prior authorization was obtained prior to the services being performed and per above rule may not be withdrawn. The services in dispute will be reviewed per applicable rules and fee guidelines.
4. Per 28 Texas Administrative Code §132.10 (a) states in pertinent part, "Medical documentation includes all medical reports and records, such as evaluation reports, narrative reports, assessment reports, progress report/notes, clinical notes, hospital records and diagnostic test results." Review of the submitted documentation finds;

Date of Service	Submitted Codes	Medical Documentation submitted	Does documentation support services as billed?
September 5, 2013	97112, 97014, 97110	Daily Progress note	yes
September 6, 2013	97140, 97112, 97014	Daily Progress note	yes
September 10, 2013	97110, 97140, 97112, 97014	Daily Progress note	yes
September 19, 2013	97110, 97140, 97112, 97014	Daily Progress note	yes
September 24, 2013	97110, 97140, 97112, 97014	Daily Progress note	yes
September 27, 2013	97110, 97140, 97112, 97014	Daily Progress note	yes
October 8, 2013	97110, 97140, 97112, 97014	Daily Progress note	yes
October 10, 2013	97110, 97140, 97112, 97014	Daily Progress note	yes
October 15, 2013	97110, 97140, 97112, 97014	Daily Progress note	yes
October 17, 2013	97110, 97140, 97112, 97014	Daily Progress note	yes

October 22, 2013	97110, 97140, 97112, 97014	Daily Progress note	yes
October 24, 2013	97110, 97140, 97112, 97014	Daily Progress note	yes
October 29, 2013	97110, 97140, 97112, 97014	Daily Progress note	yes
October 31, 2013	97110, 97140, 97112, 97014	Daily Progress note	yes
December 10, 2013	97110, 97140, 97112, 97014	Daily Progress note	yes
January 30, 2014	97799	Progress note 5 units	yes
January 31, 2014	97799	Progress note 6 units	yes
February 3, 2014	97799	Progress note 5.5 units	yes
February 4, 2014	97799	Progress note 7.75 units	yes
February 5, 2014	97799	Progress note 4 units	yes
February 6, 2014	97799	Progress note 5.5 units	yes
February 7, 2014	97799	Progress note 6.25 units	yes
February 11, 2014	97799	Progress note 6.75 units	yes
February 13 2014	97799	Progress note 4 units	yes

Based on the above, the Division finds the Carrier's denial for 112 – "Service not furnished directly to the patient and/or not documented" is not supported. The services in dispute will be reviewed per applicable rules and fee guidelines.

5. 28 Texas Administrative Code §134.203 (c) states in relevant portion, "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is (date of service yearly conversion factor)". The services related to physical therapy will be calculated as follows;

Date of service	Submitted Code	Billed Amount	Units	Prior authorized	Maximum allowable reimbursement (TDI-DWC conversion factor / Medicare conversion factor) x non-facility price = MAR or 28 Texas Administrative Code 134.203 (h) When there is no negotiated or contracted amount that complies with Labor Code §413.011, reimbursement shall be the <b>least of</b> the: (1) MAR amount; (2) health care provider's usual and customary charge, unless directed by Division rule to bill a specific amount;
September 5, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times 33.49 = \$54.43$ (\$51.80 usual and customary)
September 5, 2013	97014	22.00	1	no	n/a not included on prior auth request
September 6, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
September 6, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
September 6, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)
September 6, 2013	97014	22.00	1	no	n/a not included on prior auth request
September 10, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
September 10, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
September 10, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)
September 10, 2013	97014	22.00	1	no	n/a not included on prior auth request
September 19, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
September 19, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
September 19, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)
September 19, 2013	97014	22.00	1	no	n/a not included on prior auth request
September 24, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
September 24, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
September 24, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)
September 24, 2013	97014	22.00	1	no	n/a not included on prior auth request
September 27, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
September 27, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
September 27, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)

September 27, 2013	97014	22.00	1	no	n/a not included on prior auth request
October 8, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
October 8, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
October 8, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)
October 8, 2013	97014	22.00	1	no	n/a not included on prior auth request
October 10, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
October 10, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
October 10, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)
October 10, 2013	97014	22.00	1	no	n/a not included on prior auth request
October 15, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
October 15, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
October 15, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)
October 15, 2013	97014	22.00	1	no	n/a not included on prior auth request
October 17, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
October 17, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
October 17, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)
October 17, 2013	97014	22.00	1	no	n/a not included on prior auth request
October 22, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
October 22, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
October 22, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)
October 22, 2013	97014	22.00	1	no	n/a not included on prior auth request
October 24, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
October 24, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
October 24, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)
October 24, 2013	97014	22.00	1	no	n/a not included on prior auth request
October 29, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
October 29, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
October 29, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)
October 29, 2013	97014	22.00	1	no	n/a not included on prior auth request
October 31, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
October 31, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
October 31, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)
October 31, 2013	97014	22.00	1	no	n/a not included on prior auth request
December 10, 2013	97110	198.40	4	yes	$(55.3 / 34.023) \times 32.13 = \$52.22 \times 4 = \$208.88$ (\$198.40 usual and customary)
December 10, 2013	97140	92.60	2	yes	$(55.3 / 34.023) \times \$30.08 = \$48.89 \times 2 = \$97.78$ (\$92.60 usual and customary)
December 10, 2013	97112	51.80	1	yes	$(55.3 / 34.023) \times \$33.49 = \$54.43$ (\$51.80 usual and customary)
December 10, 2013	97014	22.00	1	no	n/a not included on prior auth request
			Total		\$4,804.70

The Maximum allowable reimbursement for the physical therapy services in dispute is \$4,804.70.

6. 28 Texas Administrative Code §134.204 (B) states in relevant portion, "If the program is not CARF accredited, the only modifier required is the appropriate program modifier. The hourly reimbursement for a non-CARF accredited program shall be 80 percent of the MAR and (5) "The following shall be applied for billing and reimbursement of Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs. (A) Program shall be billed and reimbursed using CPT Code 97799 with modifier "CP" for each hour. The number of hours shall be indicated in the units column on the bill. CARF accredited Programs shall add "CA" as a second modifier. (B) Reimbursement shall be \$125 per hour. Units of less than one hour shall be prorated in 15 minute increments. A single 15 minute increment may be billed and reimbursed if greater than or equal to eight minutes and less than 23 minutes." Therefore the chronic pain management services eligible for review will be calculated as found below;

Date of service	Submitted Code	Units supported by documentation	Submitted charge	MAR (\$125 x 80% for on-CARF accredited program)
January 30, 2014	97799	5 units	\$625.00	$(\$125 \times 80\% = 100) \times 5 = \$500$
January 31, 2014	97799	6 units	\$750.00	$(\$125 \times 80\% = 100) \times 6 = \$600.00$
February 3, 2014	97799	5.5 units	\$687.50	$(\$125 \times 80\% = 100) \times 5.5 = \$500.00 + \$50.00 = \$550.00$
February 4, 2014	97799	6.75 units	\$700.00	$(\$125 \times 80\% = 100) \times 6 = \$600 + \$75.00 = \$675.00$
February 5, 2014	97799	4 units	\$500.00	$(\$125 \times 80\% = 100) \times 4 = \$400.00$
February 6, 2014	97799	5.5 units	\$687.50	$(\$125 \times 80\% = 100) \times 6 = \$600.00 + \$50.00 = \$650.00$
February 7, 2014	97799	6.25 units	\$812.50	$(\$125 \times 80\% = 100) \times 6 = \$600.00 + \$25.00 = \$625.00$
February 11, 2014	97799	6.75 units	\$875.00	$(\$125 \times 80\% = 100) \times 8 = \$800.00 + \$75.00 = \$875.00$
February 13 2014	97799	4 units	\$500.00	$(\$125 \times 80\% = 100) \times 4 = \$400.00$
			Total	\$5,125.00

The total maximum allowable reimbursement for the Chronic Pain Management services in dispute is \$5,125.00. This amount is recommended.

The total allowable reimbursement for all services in dispute is \$9,929.70 less amount paid by carrier of \$364.80 leaves a balance due to the requestor of \$9,564.90. This amount is recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$9,564.90.

### **ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$9,564.90 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

### **Authorized Signature**

_____ Signature	_____ Medical Fee Dispute Resolution Officer	March 25, 2015 _____ Date
_____ Signature	_____ Medical Fee Dispute Resolution Manager	March 25, 2015 _____ Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**